

H. B. CAHOON INVESTMENT COMPANY
JOHN OAKASON

IBLA 76-681

Decided October 6, 1976

Appeal from decision of Wyoming State Office, Bureau of Land Management, increasing rental and requiring a bond for oil and gas lease W 49151.

Affirmed.

1. Oil and Gas Leases: Bonds -- Oil and Gas Leases: Known Geological Structure -- Oil and Gas Leases: Rental

Where part of the lands in an oil and gas lease are included within the known geologic structure of a producing oil or gas field, the annual rental rate will be increased for all of the land in the lease and a bond-required.

APPEARANCES: John S. Kirkham, Esq., Van Cott, Bagley, Cornwall and McCarthy, Salt Lake City, Utah.

OPINION BY ADMINISTRATIVE JUDGE RITVO

The H. B. Cahoon Investment Company and John Oakason have appealed from a decision of the Wyoming State Office, Bureau of Land Management (BLM), dated June 3, 1976, increasing the rental and requiring a bond to be filed for oil and gas lease W-49151 because all or part of the land in the lease is within the known geologic structure (KGS) of the Twenty Mile Creek oil and gas field.

The lease was issued noncompetitively effective March 1, 1975, for 765.21 acres at an annual rental of \$ 383.00. It was assigned to appellants effective September 1, 1975. On May 13, 1976, the Geological Survey notified the Wyoming State Director, BLM, that part of the land in the lease (Lot 4 sec. 30, T. 35 N., R. 67 W. 6th P.M., Wyoming), along with other land, was in the

undefined addition to the Twenty Mile Creek known geologic structure, effective March 10, 1976. Thereupon the State Office issued the decision appealed from.

The State Director acted in accordance with the pertinent regulations, which provide:

Rentals shall be payable in advance at the following rates:

* * * * *

(b) On leases wholly or partly within the known geologic structure of a producing oil or gas field:

(1) If issued noncompetitively under section 17 of the act, *
* * beginning with the first lease year after expiration of thirty days' notice to the lessee that all or part of the land is included in such a structure and for each year thereafter prior to a discovery of oil or gas on the leased lands, rental of \$ 2 per acre or fraction thereof.

43 CFR 3103.3-2.

Another regulation requires a bond to be filed after notice that lands have been included within the limits of a known geologic structure. 43 CFR 3104.1-2(b).

Appellant points out that, while the KGS includes only 35.55 acres of lease W-49151, the increased rental applies to the entire 765.21 acres of the lease. It contends that the Bureau of Land Management has arbitrarily expanded the application of the statute to non-KGS lands and has acted beyond the scope of authority granted to it by statute to determine lease rentals. The increased rental, it says, should apply only to the acreage in the KGS, while the remainder should pay only \$ 0.50 per acre.

The Mineral Leasing Act, as amended, authorizes the Secretary of the Interior to establish rentals for oil and gas leases at not less than \$.50 per acre. 30 U.S.C. § 226(d) (1970). Further, the Secretary of the Interior is authorized to prescribe "necessary and proper rules and regulations" in carrying out the purposes of the Act. 30 U.S.C. § 189 (1970). In the exercise of his authority, the Secretary has determined that where any part of a lease is within a KGS the increased rental shall apply to the whole of the lease. A similar regulation has been in effect for 40 years. 43 CFR 192.28 (1938). The oil and gas lease is subject

to all rules and regulations of the Secretary of the Interior. Likewise, Section 2(d)(1)(b)(i) of the lease requires the lessee to pay advance rental:

If the lands are wholly or partly within the known geologic structure of a producing oil and gas field:

(i) Beginning with the first lease year after 30 days notice that all or part of the land is included in such a structure and for each year thereafter, prior to a discovery of oil and gas on the lands leased, \$ 2 per acre or fraction of an acre.

In addition, Section 2(a)(3) of the lease expressly requires the lessee to furnish a bond "upon the inclusion of any part of the leased land within the known geologic structure of a producing oil and gas field."

In requiring the bond and increased rental where only part of the leased land was placed within the KGS, the State Office, as it must, properly applied the regulation and lease contract terms. Cf. Duncan Miller, 20 IBLA 9 (1975); Duncan Miller, A-30684 (January 19, 1967).

Therefore, pursuant the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Wyoming State Office is affirmed.

Martin Ritvo
Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Newton Frishberg
Chief Administrative Judge

